

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JERRY LEON DEES, JR.,

Plaintiff,

v.

**HYUNDAI MOTOR MANUFACTURING
ALABAMA, LLC, and HYUNDAI
MOTOR AMERICA, INC.,**

Defendants.

**CIVIL ACTION NO.:
2:07-cv-00306-MHT-CSC**

**DEFENDANT HYUNDAI MOTOR AMERICA, INC.’S
MOTION FOR ALLOWANCE OF COSTS**

Defendant Hyundai Motor America, Inc. (hereinafter “HMA” or “Defendant”) files this motion and supporting authorities to seek reimbursement of costs incurred in this case. HMA has contemporaneously attached hereto a Bill of Costs and the Affidavit of J. Trent Scofield (defense counsel) in connection with this motion as Exhibit A. In further support, HMA states:

I. Procedural History

1. In this action, Plaintiff Jerry Leon Dees asserted three causes of action (USERRA, outrage, and conversion) against two defendants: HMA and Hyundai Motor Manufacturing Alabama, LLC (“HMMA”). (Doc. 2, Complaint).

2. Plaintiff sought to bind HMA on an alter ego-mere instrumentality theory of recovery. (*Id.*). From the outset of this litigation, HMA denied it played any role in Plaintiff’s termination and maintained it was a separate and distinct entity from Plaintiff’s former employer, HMMA. At the same time, HMMA admitted that it had employed Plaintiff and HMA had no role in terminating him. HMA timely moved to dismiss Plaintiff’s claims against it. (Doc. 8).

However, this Court denied HMA's motion to dismiss and deferred resolution of this issue until summary judgment. (Doc. 11). HMA then filed its answer and denied liability as to all claims that Plaintiff asserted against it. (Doc. 17).

3. During discovery, Plaintiff aggressively pursued all of his claims against both HMA and HMMA. In the context of deciding a discovery dispute, this Court noted:

As a practical matter the court is skeptical about the efficacy of the plaintiff spending time, effort and money to pursue a theory that will profit him little or nothing. Even if he is successful on his claims, the plaintiff's recovery will not be changed by showing that Hyundai Motor America, Inc. had anything to do with his treatment. Indeed, the court has been tempted to employ the general provisions of FED.R.CIV.P. 1 to restrict the scope of depositions "to secure the just, speedy and inexpensive determination of" this action. But, in the end, the plaintiff knows his case the best, and where as here the discovery is consistent with the rules, the court should not interfere simply because the court thinks the tactics are fruitless and wasteful.¹

4. Both HMA and HMMA timely moved for summary judgment. (*See* Docs. 67-69). Plaintiff opposed entry of summary judgment and, at all times maintained that he was entitled to recovery against HMA on all of the claims he had asserted against it. (Doc. 107 at pp. 14-15, 35-37).

5. On May 21, 2008, the Court entered an Opinion which summarily rejected all of Plaintiff's claims against HMA. (Doc. 186 at pp. 4-7, 22-25). On the same date, a Rule 58 Judgment was entered dismissing all claims against HMA. (Doc. 187).

II. Argument

6. Because HMA prevailed on the state law claims asserted by Plaintiff, HMA is entitled to seek costs pursuant to 28 U.S.C. § 1920.

¹ Doc. 88 at p. 5. The Court further notes, "And, of course, if he [plaintiff] is not successful he only has substantially increased his cost of litigation." *Id.* at n. 7.

7. USERRA provides that “[n]o fees or court costs may be charged against any person claiming rights under this chapter.” 38 U.S.C. § 4323(h).

8. However, the statute **does not** specifically prohibit a court from taxing fees and costs against a plaintiff who has asserted claims that are separate and distinct from USERRA claims.

9. The mere fact that Dees asserted USERRA claims against HMA in addition to his state law claims does not preclude this Court from taxing costs and fees against him. *See Brinkley v. Dialysis Clinic, Inc.*, 2006 WL 566799 (M.D. Ala. March 1, 2006) (costs taxed against three plaintiffs related to race discrimination claims even though same plaintiffs also had claims for violations of USERRA) (Thompson, J.); *see also, Chance v. Dallas Cty Hosp. Dist.*, 176 F.3d 294 (5th Cir. 1999) (a plaintiff who asserts multiple claims and does not prevail may be taxed costs except as to those attributable to the filing and advancing of an USERRA claim); *Key v. Hearst Corp.*, 963 F. Supp. 283 (S.D.N.Y. 1997) (without specifically discussing the issue, taxing costs against a USERRA plaintiff when the plaintiff’s original complaint also included a claim for breach of contract, a state military law claim and alleged violations of Title VII and § 1981).

10. In discovery, the parties conducted the following depositions: Jerry Dees, Wendy Warner, Robert A. Clevenger, John Gerald Kalson, Mickey Ralph Phillips, Gwang Mun, and Katherine Dees.

11. This Court has held that it is appropriate for a defendant to seek costs incurred in the taking of depositions. *See Brinkley*, 2006 WL 566799, at 1 (M.D. Ala. March 1, 2006) (citing *United States v. Kolesar*, 313 F.2d 835, 837-38 (5th Cir. 1963) and *Coleman v. Roadway Express*, 158 F.Supp.2d 1304, 1310 (M.D. Ala. 2001) (Thompson, J.).

12. Because Gwang Mun does not speak English as his first language, HMA hired a Korean interpreter for his deposition.

13. Recovery of costs for the use of interpreters is provided by 28 U.S.C. § 1920(6).

See Herard v. ATN Restaurant, Inc., 2008 WL 123596 at *3 (S.D. Fla. 2008 January 8, 2008) (taxing of costs for an interpreter for use at plaintiff's deposition where plaintiff does not speak English is proper.)

14. In addition, through the course of discovery, Plaintiff noticed the deposition of HMA's corporate representative for January 21, 2008 in Fountain Valley, California. On Friday January 18, 2008, Plaintiff's counsel cancelled HMA's corporate representative deposition. Due to the short notice of the cancellation and the fact that the deposition was scheduled for a legal holiday, HMA incurred the cost of a non-refundable airline ticket for its counsel.

15. Based on the foregoing facts and authority, HMA submits that it is entitled to the costs and fees set forth in its Bill of Costs attached hereto as Exhibit A.

16. There is no genuine dispute that costs of \$5,372.50, which represents the court reporter and interpreter fees and the cost of the non-refundable airline ticket, were related in large part to Dees' claim that HMA engaged in outrageous behavior and converted his personal belongings in violation of Alabama law.

17. Under these circumstances, Defendant HMA submits that requiring Plaintiff to reimburse Defendant for the costs related to depositions (i.e., court reporter fees and costs of deposition transcripts), interpreter fees and the non-refundable airline ticket would be fair and equitable.

III. Conclusion

18. For the foregoing reasons, HMA respectfully requests that this Honorable Court grant leave for HMA to file a Bill of Costs. A copy of the proposed Bill of Costs and Affidavit of J. Trent Scofield are attached hereto as Exhibit A.

Respectfully submitted this the 19th day of June, 2008.

/s/ J. Trent Scofield

Timothy A. Palmer (PAL009)
J. Trent Scofield (SCO024)
T. Scott Kelly (KEL053)
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
One Federal Place, Suite 1000
1819 Fifth Avenue North
Birmingham, AL 35203-2118
Tel.: (205) 328-1900
Fax: (205) 328-6000
E-mail: tim.palmer@odnss.com
E-mail: trent.scofield@odnss.com
E-mail: scott.kelly@odnss.com

Attorneys for Defendants Hyundai Motor
Manufacturing Alabama, LLC and
Hyundai Motor, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of June, 2008, I electronically filed the foregoing *Motion for Allowance of Costs* on behalf of Defendant Hyundai Motor America, Inc. with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: W. Perry Hall, Vincent F. Kilborn, III, David Allen McDonald, Jeffrey R. Sport, T. Scott Kelly, Matthew K. Johnson, and Timothy A. Palmer.

/s/ J. Trent Scofield

J. Trent Scofield (SCO024)
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
One Federal Place, Suite 1000
1819 Fifth Avenue North
Birmingham, AL 35203-2118
Tel.: (205) 328-1900
E-mail: trent.scofield@odnss.com

Jerry Dees v. HMMA
2:07-cv-00306-MHT-CSC

EXHIBIT A

Hyundai Motor America's Inc.
Bill of Costs

and

Affidavit of J. Trent Scofield

UNITED STATES DISTRICT COURT

MIDDLE

District of

ALABAMA

Jerry Leon Dees, Jr., Plaintiff

V.

Hyundai Motor America, Inc., Defendant

BILL OF COSTS

Case Number: 2:07cv306-MHT

Judgment having been entered in the above entitled action on May 21, 2008 against Plaintiff,
 the Clerk is requested to tax the following as costs:

Fees of the Clerk	\$
Fees for service of summons and subpoena
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case (see Attachment A)	\$ 3,761.75
Fees and disbursements for printing
Fees for witnesses (itemize on page two)
Fees for exemplification and copies of papers necessarily obtained for use in the case
Docket fees under 28 U.S.C. 1923
Costs as shown on Mandate of Court of Appeals
Compensation of court-appointed experts
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828 (see Attachment B)	\$ 556.80
Other costs (please itemize) (see Attachment C)	\$ 1,053.50
TOTAL	\$ 5,372.50

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

DECLARATION

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill has been served on all parties in the following manner:

- Electronic service by e-mail as set forth below and/or,
 Conventional service by first class mail, postage prepaid as set forth below.

s/ Attorney:

Name of Attorney: J. Trent ScofieldFor: HYUNDAI MOTOR AMERICA, INC. Date: June 19, 2008

Name of Claiming Party

Costs are taxed in the amount of _____ and included in the judgment.

Clerk of Court

By:

Deputy Clerk

Date

SAO 133

(Rev. 8/06) Bill of Costs

UNITED STATES DISTRICT COURT

NOTICE

Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:

"Sec. 1924. Verification of bill of costs."

"Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed."

See also Section 1920 of Title 28, which reads in part as follows:

"A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree."

The Federal Rules of Civil Procedure contain the following provisions:

Rule 54 (d)

"Except when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs, but costs against the United States, its officers, and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day's notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court."

Rule 6(e)

"Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period."

Rule 58 (In Part)

"Entry of the judgment shall not be delayed for the taxing of costs."

Attachment A

**FEES OF THE COURT REPORTER FOR ALL OR ANY PART OF THE
TRANSCRIPT NECESSARILY OBTAINED FOR USE IN THE CASE
AGAINST HYUNDAI MOTOR AMERICA, INC.**

Exh.

1.	Deposition of Jerry Dees taken on November 20, 2007	\$1,358.35
2.	Deposition of Wendy Warner taken on November 15, 2007	\$ 673.40
3.	Deposition of Robert A. Clevenger taken on December 13, 2007	\$ 486.25
4.	Depositions of John Gerald Kalson and Mickey Ralph Phillips taken January 18, 2008	\$ 495.00
5.	Deposition of Gwang Mun taken on January 8, 2008	\$185.65
	Deposition of Katherine Dees taken January 8, 2008	<u>\$375.60</u>
6.	Video Deposition of Gwang Mun taken on January 8, 2008 (see attached Notice of Video Deposition from Plaintiff)	\$ 187.50

FREEDOM REPORTING, INC.

367 Valley Avenue - Birmingham, AL 35209
 Toll Free: 1-877-373-3660
 205-397-2397 Fax: 205-397-2398
www.freedomreporting.com
 Tax ID Number: 20-2776665

Matthew K. Johnson
 Ogletree, Deakins, Nash (SC)
 300 North Main Street
 Suite 5
 Greenville, SC 29601

December 4, 2007

Invoice# 00060346

Balance: \$1,358.35

6363.34 *(Reposition of Jerry Dees)*
 Re: Jerry Leon Dees, Jr. vs. Hyundai Manufacturing Alabama, LLC
 Montgomery / 2:07-CV-00306-MHT-CSC / Jerry Leon Dees, Jr.
 on 11/20/07
 by Angela Smith McGalliard

Invoicing Information

<u>Charge Description</u>	<u>Amount</u>
Per Diem: 1	120.00
Original & copy: 389 pages	1,186.45
Exhibits/B & W: 34	11.90
Condensed/concordance(s):	10.00
Depo Disk:	15.00
Postage: DHL	15.00

Deponent: Jerry Leon Dees, Jr.

Vendor # 215320 Location # 111
 Approved by JWJ Date DEC 18 2007
 Resp. Party #
 G/L code 2012

OK to PJS JTS -
JWJ

Client/Matter # 6363.34
 Cost Code 5170
 Voucher # _____ Pay Date _____

Please Remit ---> Total Due: \$1,358.35

All Invoices are due within 30 days of receipt



Henderson & Associates Court Reporters, Inc.

Post Office Box 2263
 Mobile, AL 36652
 Phone #: (251)694-0950 Fax #: (251)694-7930

Employer ID. No. 63-1183616

To:

J. TRENT SCOFIELD, ESQUIRE
 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
 ONE FEDERAL PLACE, STE. 1000, 1819 FIFTH AVE N
 BIRMINGHAM, AL 35203

Statement Date:
11/27/2007
Invoice No.
27,811

PLEASE REFERENCED THIS
INVOICE NUMBER WHEN
REMITTING

RE: DEES VS. HYUNDAI MOTOR MANUFACTURING ET AL

Deposed: WARNER

6363.34

DONNA HENDERSON

Deposition Date: 11/15/2007

Deposition of Wendy Warner

Code	Description	Charges
03	Copy of Transcript - WENDY WARNER	549.00
05	Copy of Exhibits	89.40
04	Condensed Transcript	20.00
07	ASCII Disk	5.00
06	Postage	10.00
	Vendor # 209058 Location # 111 Approved by JHN Date DEC 4 2007 Resp. Party # _____ G/L code 2012 Client/Matter # 6363.34 Cost Code 5171 Voucher # _____ Pay Date _____	
	To ensure proper credit, please enclose a copy of this invoice with payment. We also accept Visa & Mastercard credit card payments!	Total: 673.40

TOTAL BALANCE DUE: 673.40



DU to Pg | JTS

Henderson & Associates Court Reporters, Inc.

Post Office Box 2263
 Mobile, AL 36652
 Phone #: (251)694-0950 Fax #: (251)694-7930

Employer ID. No. 63-1133616

To:

**TRENT SCOFIELD, ESQUIRE.
 OGLETREE, DEAKINS, NASH, SMOAK & STEWART
 P.O. BOX 2757
 GREENVILLE, SC 29602**

RE: DEES VS. HYUNDAI MOTOR MANUFACTURING ET AL

Statement Date	12/21/2007
Invoice No.	28,011
PLEASE REFERENCED THIS INVOICE NUMBER WHEN REACTING	

Deposited: **WARNER, CLEVENGER**

STACEY LJOHNSON

Deposition Date: **12/13/2007**

Code	Description	Charges
03	Copy of Transcript - WENDY X. WARNER	27.00
03	Copy of Transcript - ROBERT A CLEVENGER	412.20
05	Copy of Exhibits	3.30
04	Condensed Transcript	20.00
07	ASCII Disk	5.00
06	Postage	10.00
05L	Laser Copy of Exhibits	8.75
	<i>6363.34- Dees v. Hyundai Depositions of Wendy Warner & Robert Clevenger</i>	
	To ensure proper credit, please enclose a copy of this invoice with payment. We also accept Visa & Mastercard credit card payments!	Total: 486.25

Vendor # **209058** Location # **111**
 Approved by **SJW** Date **DEC 31 2007**
 Resp. Party # _____
 G/L code **2012**

TOTAL BALANCE DUE: **486.25**

Client/Matter # **6363.34**
 Cost Code **5170**
 Voucher # _____ Pay Date _____

on to pg 1

JTS -



Henderson & Associates Court Reporters, Inc.

Post Office Box 2263
 Mobile, AL 36652
 Phone #: (251)694-0950 Fax #: (251)694-7930

Employer I.D. No. 63-1183616

To:

J. TRENT SCOFIELD, ESQUIRE
 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
 ONE FEDERAL PLACE, STE. 1000, 1819 FIFTH AVE N
 BIRMINGHAM, AL 35203

Statement Date:
1/24/2008
Invoice No.
28,336

PLEASE REFERENCED THIS
INVOICE NUMBER WHEN
REPORTINGRE: DEES VS. HYUNDAI MOTOR MANUFACTURING ET AL
6363.34

Deposed: KALSON, PHILLIPS

STACEY LJOHNSON

Deposition Date: *1/18/2008**Reps. of John Kalson &
Mickey Phillips*

Code	Description	Charges
03	Copy of Transcript <i>JOH GERALD KALSON</i>	111.60
03	Copy of Transcript <i>MICKEY RALPH PHILLIPS</i>	315.00
05	Copy of Exhibits	8.40
04	Condensed Transcript	40.00
07	CD Vendor # <i>209058</i> Location # <i>111</i> Approved by <i>JWL</i> Date <i>FFB 5 2008</i>	10.00
06	Postage Resp. Party # G/L code <i>2012</i> Client/Matter # <i>6363.34</i> Cost Code <i>STJD</i> Voucher # _____ Pay Date _____	10.00
	To ensure proper credit, please enclose a copy of this invoice with payment. We also accept Visa & Mastercard credit card payments!	Total: 495.00

TOTAL BALANCE DUE: 495.00

*Ok to pay JTS*

Henderson & Associates Court Reporters, Inc.

Post Office Box 2263
 Mobile, AL 36652
 Phone #: (251)694-0950 Fax #: (251)694-7930

Employer ID. No. 63-1183616

To:

MATTHEW K. JOHNSON, ESQUIRE
 OGLETREE, DEAKINS, NASH, SMOAK & STEWART
 P.O. BOX 2757
 GREENVILLE, SC 29602

RE: DEES VS. HYUNDAI MOTOR 6363.34

Statement Date:
1/23/2008
Invoice No.
28,306

PLEASE REFERENCED THIS
INVOICE NUMBER WHEN
REMITTINGDeposited: DEES
 Deposition Date: 1/08/2008Depositions of Mrs. Dees
 & Gwang Mun

STACEY LJOHNSON

Code	Description	Charges
02	Original & One Copy of Transcript - KATHERINE DEES	345.60
04	Condensed Transcript	0.00
01	Per Diem - Half Day	60.00
06	Postage	10.00
03	Copy of Transcript - GWANG MUN	140.40
05	Copy of Exhibits	1.50
05L	Laser Copy of Exhibits	3.75
		received 1-29-08
	To ensure proper credit, please enclose a copy of this invoice with payment. We also accept Visa & Mastercard credit card payments!	Total: 561.25

Vendor # 209059 Location # 111
 Approved by JWJ Date JAN 29 2008
 Resp. Party # _____
 G/L code 2012

Client/Matter # 6363.34
 Cost Code 5170
 Voucher # _____ Pay Date _____

TOTAL BALANCE DUE:	561.25
--------------------	--------

*[Signature]*

Henderson & Associates Court Reporters, Inc.

Post Office Box 2263

Mobile, AL 36652

Phone #: (251)694-0950 Fax #: (251)694-7930

Employer I.D. No. 63-1183616

To:

MATTHEW K. JOHNSON, ESQUIRE
 OGLETREE, DEAKINS, NASH, SMOAK & STEWART
 P.O. BOX 2757
 GREENVILLE, SC 29602

Statement Date:

1/18/2008

Invoice No.

28,269

RE: DEES VS. HYUNDAI MOTOR MANUFACTURING ET AL

PLEASE REFERENCED THIS
INVOICE NUMBER WHEN
REMITTING

Deposited: VIDEO

HENDERSON&ASSOCIATES

Deposition Date: 1/08/2008

Code	Description	Charges
V2	COPY VIDEO DEPOSITION OF GWANG MUN	187.50
	Vendor # <u>209058</u> Location # <u>11</u> Approved by <u>SJW</u> Date <u>JAN 29 2008</u> Resp. Party # _____ G/L code <u>2012</u> Client/Matter # <u>6363.34</u> Cost Code <u>5170</u> Voucher # _____ Pay Date _____	

To ensure proper credit, please enclose a copy of
 this invoice with payment.
 We also accept Visa & Mastercard credit card
 payments!

Total: 187.50

TOTAL BALANCE
DUE:

187.50



OK/jts

Attachment B

**COMPENSATION OF INTERPRETERS AND COSTS OF SPECIAL
INTERPRETATION SERVICES UNDER 28 U.S.C. 1828**

1. Raymond K. Kim, Interpreter's Compensation and Costs for
Interpretation of deposition of Gwang Mun \$ 556.80

TOTAL COMPENSATION & COSTS OF INTERPRETERS: **\$ 556.80**

RAYMOND K. KIM
 Registered Korean Language Interpreter
 Georgia State License #R-05630

Telephones: 770-495-3851 (Voice & Fax) 404-723-4140 (Cell)
 2109 Hallston drive, Duluth, GA 30097

INTERPRETATION SERVICE SUMMARY

Date: 1/28/2008 Start Time: 10:00 AM EST End time: 3:00 PM
 Miles Driven (2-way): 424 Driving Time: 7.2 Hrs. Parking Fee:
(1ST 2HRS FREE)
 Person Receiving Service: JUSTIN MUN; Case #:
 Location of Service: HAMPTON INN MONTGOMERY SOUTH-AIRPORT
60 WADDEY RD., HOPE HILL, AL 36043
 Name of Provider Organization: OGLETRICE, ET AL., BIRMINGHAM, AL
 Name of Service Provider: J. TREAT SCOFIELD (205-714-4422)
 Next Appointments: MATT JOHNSON
 Signature of Provider: Matt Johnson

M. Kim was interpreter
 at Mr. Mun's deposition.

INVOICE NUMBER: _____ DATE: 01-08-08

Customer: OGLETRICE ET AL.; Customer Order #: _____;
ONE FEDERAL PLACE STE 1000
 Address: 1209 5TH AVE NORTH, BIRMINGHAM, AL 35203-2118
 Telephone: 205-327-1900 Fax: _____; e-mail: TREAT.J@FEDERALPARK.BIRMINGHAM.COM
 Fee Rate: \$12/Hr. Chargeable Hours: 5 Hrs; Total: \$ 250.00
(1ST 2HRS FREE)
 Mileage Allowance: \$ 0.445/mile; Miles Driven: 424 Miles; Total: \$ 181.80
 Parking Fee: \$ -0 -
 Driving Time Allowance (if greater than 2 hours): 5 HRS X \$25.00, \$125.00
 Invoice Total \$ 556.80

Mail Check to: RAYMOND K. KIM, 2109 Hallston drive, Duluth, GA 30097

OK to pay JTS

Vendor # new Location # 111
 Approved by JWS Date JAN 15 2008
 Resp. Party # _____
 G/L code 2012
 Client/Matter # 6363.34
 Cost Code 5550
 Voucher # _____ Pay Date _____

EXHIBIT

Attachment B

12/04/2007 05:07 12514 747

KRM ATTORNEYS

PAGE 03/08

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JERRY LEON DEES, JR., *

Plaintiff, *

vs.

* Case No. 2:07-cv-00306-MHT-CSC

HYUNDAI MOTOR MANUFACTURING
ALABAMA, LLC and HYUNDAI MOTOR
AMERICA, INC., *

Defendants. *

NOTICE OF VIDEO DEPOSITION

TO: J. Trent Scofield, Esq.
T. Scott Kelly, Esq.
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
One Federal Place, Ste. 1000
1819 Fifth Avenue North
Birmingham, AL 35203

Matthew K. Johnson, Esq.
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
P.O. Box 2757
Greenville, SC 29602

DEPONENT: GWANG MUN

DATE: December 20, 2007

TIME: 9:00 a.m.

LOCATION: TBA
Montgomery, Alabama

12/04/2007 05:07 1251 5747

KRM ATTORNEYS ..

PAGE 04/88

PLEASE TAKE NOTICE that attorneys for the Plaintiff, JERRY LEON DEES, JR., will take the pre-trial video-taped discovery deposition of GWANG MUN at the time, date and location indicated above, upon oral examination pursuant to the Federal Rules of Civil Procedure before an officer duly authorized to administer oaths and swear witnesses. The oral examination will continue from day to day until completed, and you are invited to attend and examine the deponent.

Dated this 4th day of December, 2007.



Jeffrey R. Sport (SPORJ5390)
Vincent F. Kilborn, III (KILBV4484)
KILBORN & ROEBUCK
1810 Old Government Street
Post Office Box 66710
Mobile, Alabama 36660
Telephone: (251) 479-9010
Fax: (251) 479-5747

OF COUNSEL:

David A. McDonald, Esq. (MCDOD5329)
KILBORN, ROEBUCK & MCDONALD
203 South Warren Street (36602)
P.O. Box 832
Mobile, AL 36601
(251) 434-0045 Telephone
(251) 434-0047 Fax
Email: darn@kmrlaw.us

12/04/2007 05:07 1251 3747

KRM ATTORNEYS

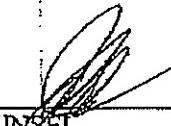
PAGE 05/08

CERTIFICATE OF SERVICE

I do hereby certify that I have served on this 4th day of December, 2007, the foregoing pleading on all counsel of record by depositing a copy of same in the United States Mail with postage prepaid to:

J. Trent Scofield, Esq.
T. Scott Kelly, Esq.
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
One Federal Place, Ste. 1000
1819 Fifth Avenue North
Birmingham, AL 35203

Matthew K. Johnson, Esq.
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
P.O. Box 2757
Greenville, SC 29602


COUNSEL

Attachment C

OTHER COSTS:

1. Cost of non-refundable airline tickets for HMA attorney due to plaintiff's cancellation of HMA's 30b deposition on Friday, January 18, 2008, for deposition scheduled in Fountain Valley, California on Monday, January 21, 2008, a legal holiday \$ 1,053.50

TOTAL OTHER COSTS: **\$ 1,053.50**

6414583.1

Travel Incorporated
 (864) 297-8726
 864 297-8726 / 800 262-1175
 800 952-8739 Vacations

Invoice # 532629

Dated: 2/8/08

Date: January 16, 2008
 Record Locator: 37HNBQ / 05T
 Ticket Number: 006-7186731487
 Account No.: 092401

JOHNSON, MATTHEW.K
 OGLETREE DEAKINS NASH

Smoak And Stewart
 300 N Main St
 Greenville Sc 29602

AIR :: Sunday, Jan 20
 Delta #1985
 Departing: (GSP) Greenville Sc at 3:35P
 Arriving: (ATL) Atlanta at 4:36P Terminal: S
 Flight Time: 1.01 Hour(s)

Coach (H Class) for Johnson/Matthew.K 10-C **Reserved** Confirmed Flight Plane: CR9
 Other: Flight Operated By Another Carrier Which May Require Check-In At The Following Airline:
 Skywest Airlines DI Confirmation #Djfpjx Seat 10-C **Reserved** Johnson/Matthew.K
 Freq. #DL2323539334

AIR :: Sunday, Jan 20
 Delta #75
 Departing: (ATL) Atlanta at 5:35P Terminal: S
 Arriving: (LAX) Los Angeles at 7:32P Terminal: 5
 Flight Time: 4.57 Hour(s)

Coach (H Class) for Johnson/Matthew.K 43-B **Reserved** Confirmed Flight Plane: 757
 Other: DI Confirmation #Djfpjx Seat 43-B **Reserved** Johnson/Matthew.K Reservation Will Be
 Monitored For Correct Seat Preference Aisle/Window Seat Unavailable/Center Confirmed-Check At
 Gate
 Freq. #DL2323539334

CAR :: Sunday, Jan 20
 Avis
 Pick Up: Los Angeles Int'l-Terminal on Sun, Jan 20 At Sun/DI0075-1932
 Return: 9217 Airport Blvd on Tue, Jan 22 At 1140
 Conf #: CONFO-22826775US6 PEXP

Phone- 310-342-9200 Rate-(guaranteed) Usd 53.83 Daily Unlimited Mileage Extra Day Charge
 \$3.83 Unlimited Mileage Extra Hour Charge 26.92 Unlimited Mileage Approx Total 142.18 Usd
 Includes Taxes-Fees-Surcharges 1 Full Size Car Corporate Id-A715900 Concession Recovery
 Fee May Apply Ba-086007 Seat Assignment At Airport Only-Arrive Early To Check-In
 Freq. #J6176R

AIR :: Tuesday, Jan 22
 Delta #44
 Departing: (LAX) Los Angeles at 11:40A Terminal: 5
 Arriving: (CVG) Cincinnati at 6:52P Terminal: 3
 Flight Time: 4.12 Hour(s)

Coach (H Class) Confirmed Flight Plane: 757
 Other: DI Confirmation #Djfpjx Reservation Will Be Monitored For Correct Seat
 Preference
 Freq. #DL2323539334

AIR :: Tuesday, Jan 22
 Delta #5246
 Departing: (CVG) Cincinnati at 7:45P Terminal: 3
 Arriving: (GSP) Greenville Sc at 8:58P
 Flight Time: 1.13 Hour(s)

Coach (H Class) for Johnson/Matthew.K 16-B **Reserved** Confirmed Flight Plane: ERJ
 Other: Flight Operated By Another Carrier Which May Require Check-In At The Following Airline:
 Chautauqua Airlines DI Confirmation #Djfpjx Seat 16-B **Reserved** Johnson/Matthew.K
 Freq. #DL2323539334

FEE :: Thursday, Jan 24

Fee: Fee-Domestic Air
 Amount: \$31.00
 Other: Additional Fees May Apply For Voids * Refunds * Exchanges

Itinerary / Invoice Charges:

Service Charge	31.00
Tax	0.00
Total Fees	31.00
Air Fare	916.27
Tax	106.23
Total Air Fare	1022.50
Total Invoice Amount	1053.50
Amount Charged	1053.50

Additional:
 This Amount Will Be Charged To Credit Card: Ax

Message from your Agent:

No Car Requested
 No Hotel Requested
 Plan To Arrive At The Airport A Minimum Of 2 Hrs
 Prior To Departure. Photo Id And Boarding Pass
 Are Required For Airport Security And Check-In.
Ticket Is Nonrefundable
 \$75.00 Per Itself Penalty Applies For Changes/Cancellation
 Changes To Flight May Result In Higher Fare
 Car Rental Locations May Not Accept Debit Cards. Please
 Contact The Location You Are Renting From Directly
 To Verify Payment Policy.
 Avis 24hr Emergency Road Side Assistance 1-800-354-2847
 Avis Customer Service 1-800-352-7900

Car added.

Frequent Flyer Numbers
 Johnson/Matthew.K DI2323539334

Thank You For Your Business

Powered By Travel Incorporated

EXHIBIT

1
 Attachment C

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JERRY LEON DEES, JR.,

*

Plaintiff,

*

vs.

* Case No. 2:07-cv-00306-MHT-CSC

HYUNDAI MOTOR MANUFACTURING
ALABAMA, LLC and HYUNDAI MOTOR
AMERICA, INC.,

*

*

Defendants.

*

AMENDED NOTICE OF DEPOSITION OF
HYUNDAI MOTOR AMERICA, INC.

PURSUANT TO RULE 30(b)(6) OF THE FEDERAL RULES OF CIVIL PROCEDURE

TO:

J. Trent Scofield
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
One Federal Place, Ste. 1000
1819 Fifth Avenue North
Birmingham, AL 35203

Matthew K. Johnson, Esq.
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
P.O. Box 2757
Greenville, SC 29602

DEONENT: HYUNDAI MOTOR AMERICA, INC.

DATE: January 21, 2008

TIME: 9:00 a.m.

LOCATION: HMA Corporate Headquarters
10550 Talbert Avenue
Fountain Valley, CA 92708

PLEASE TAKE NOTICE that pursuant to Rule 30(b)(6) of the Federal Rules of Civil

Procedure, attorneys for the Plaintiff, JERRY LEON DEES, JR., will take the deposition of the Defendant HYUNDAI MOTOR AMERICA, INC. by its designated agent or agents most knowledgeable about and familiar with the matters set forth below, at the time, date and location indicated above upon oral examination before a Notary Public or other officer duly authorized to administer oaths and swear witnesses. The oral examination(s) will continue from day to day until completed.

MATTERS ON WHICH EXAMINATION IS REQUESTED

The subject matters for which the deponent(s) will be requested to testify are as follows:

1. The relationship between HYUNDAI MOTOR MANUFACTURING ALABAMA, LLC and HYUNDAI MOTOR AMERICA, INC. to show the extent to which HMMA is the alter ego of HMA and/or that HMMA is a mere instrumentality of HMA.
2. The circumstances surrounding the decision to halt production for several calendar days in 2007.

DUCES TECUM

Please take further notice that the witness or witnesses designated by the plaintiff, notified hereby to appear for this deposition, be prepared to testify in the matters described and enumerated above, and are requested to bring to the deposition pursuant to Rule 30(b)(5) of the Federal Rules of Civil Procedure and make available for copying the following documents, records, and other items set forth in Exhibit A attached.

Dated this 4th day of January, 2008.



Jeffrey R. Sport (SPORJ5390)
Vincent F. Kilborn, III (KILBV4484)
KILBORN & ROEBUCK
1810 Old Government Street
Post Office Box 66710
Mobile, Alabama 36660
Telephone: (251) 479-9010
Fax: (251) 479-6747

OF COUNSEL

David A. McDonald, Esquire
KILBORN, ROEBUCK & MCDONALD
203 South Warren Street (36602)
P.O. Box 832
Mobile, AL 36601
(251) 434-0045 Telephone
(251) 434-0047 Fax
Email: dam@krmlaw.us

CERTIFICATE OF SERVICE

I do hereby certify that I have served on this 4th day of January, 2008, the foregoing pleading on all counsel of record by depositing a copy of same in the United States Mail with postage prepaid to:

J. Trent Scofield
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
One Federal Place, Ste. 1000
1819 Fifth Avenue North
Birmingham, AL 35203\

Matthew K. Johnson, Esq.
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
P.O. Box 2757
Greenville, SC 29602



COUNSEL

EXHIBIT A
PRODUCTION OF DOCUMENTS PURSUANT
TO RULE 30(b)(5)

Please produce at the time and place of your deposition noticed on the attached NOTICE OF DEPOSITION the following documents (the words "document" or "documents" as used herein shall include, without limitation, all written, recorded, electronically-generated, or graphic matter whatsoever and all non-identical copies thereof, including, but not limited to, papers, books, records, letters, photographs, tangible things, correspondence, communications, telegrams, cables, facsimile messages, memoranda, notes, notations, work papers, work orders, transcripts, minutes, reports, records of telephone or other conversations, statements, summaries, opinions, studies, analyses, evaluations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, guidelines, video tapes, audio tapes, electronically-stored data, e-mails, attachments to e-mails, computer disks, CAD, charts, manuals, brochures, publications, schedules, journals, books of accounts, diaries, lists, tabulations, newsletters, drafts, proofs, galleries, or other pre-publication forms or materials, telephone lists or indexes, Rolodexes, records or invoices reflecting business operations, canceled checks, vouchers, ledger sheets, spreadsheets, witness statements, findings of investigations, minutes of any corporate meetings, minutes of meetings of boards of directors of corporations, records of negotiations, reports of experts, reports of consultants, any notes or drafts relating to any of the foregoing, all records kept by electronic, photographic, optical, or mechanical means, on "C:" or similar drives, all things similar to the foregoing, and any other documents as defined by the *Federal Rules of Civil Procedure* of any kind in your possession, custody or control, or known by you to exist):

1. Any and all documents that relate or refer to the relationship or affiliation of any kind (including but not limited to licensing agreements, stock ownership, common officers or directors, intercompany debt or debt guaranties or financing) between Hyundai Motor America, Inc. ("HMA") and Hyundai Motor Manufacturing Alabama, LLC ("HMMA"), including but not limited to:
 - a. Agreements for the sale or manufacture of automobiles or automobile parts and accessories between HMMA and HMA, including any agreements with any other "Hyundai entity"¹ for the sale or manufacture of vehicles or parts manufactured by HMMA;
 - b. Agreements between HMA and HMMA, including but not limited to, management agreements, stock option agreements, labor and/or collective bargaining agreements, executive compensation agreements, and retirement or pension plans and agreements;

¹ "Hyundai entity" refers to Hyundai Motor Company in Seoul, South Korea, as well as any affiliate, subsidiary, partner (limited or otherwise) or agent of Hyundai Motor Company.

- c. Agreements between HMMA and any supplier of parts, materials and/or services in which HMA or any other Hyundai entity has any financial or beneficial interest in existence at any time from 2004 through present;
- d. Any employment agreements or other documents evidencing any other arrangement or accommodations between HMA and HMMA relating to the sharing of the costs, benefits, charges or expenses of any officers, directors, or employees performing duties for both entities from 2004 through present;
- e. Any expense reports, vouchers, or other documents evidencing travel of HMMA officers, directors, or employees to HMA, or HMA officers, directors, or employees to HMMA from 2004 through present;
- f. Invoices for automobiles and parts sold by HMMA to HMA, or suitable summaries thereof from 2004 through present;
- g. If automobiles and/or parts are sold to another Hyundai entity for HMA's benefit, invoices for automobiles sold to that entity, or suitable summaries thereof, from 2004 through present;
- h. Any intercompany journal entries with supporting invoices, vouchers, or other documentation showing costs of HMA transferred to HMMA, or vice versa, including any costs of HMA or HMMA transferred to the other via pass-through of another Hyundai entity from 2004 through present;
- i. Any and all documents, including correspondence, evidencing communications between HMA and HMMA from 2005 through the present;
- j. Any other documents that relate or refer to any relationship, business arrangement, or contact between HMA and HMMA from 2004 through present.
- k. Any consolidated federal or state tax returns evidencing the consolidated taxable income of HMA and HMMA, including any returns consolidating other Hyundai entities in addition to HMA and HMMA, and including any returns prepared, maintained or distributed outside of the United States from 2004 through present;
- l. Any audited, reviewed, or compiled financial statements evidencing the consolidated results of HMA and HMMA, including financial statements prepared, maintained or distributed outside of the United States from 2004 through present;
- m. All required financial or other filings with the United States government or regulatory agencies thereof within the last three years from 2004 through present; and

- n. Any documents or records evidencing the sharing or allocation of assets or resources of HMMA with HMA within the State of Alabama, including but not limited to, office or building space, real estate, equipment, employees, company vehicles, or funds from 2004 through present.
2. Organizational chart showing the management hierarchy within HMA and HMMA as well as the reporting lines of communication and control above HMA and HMMA.

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JERRY LEON DEES, JR.,

Plaintiff,

v.

**HYUNDAI MOTOR MANUFACTURING
ALABAMA, LLC, and HYUNDAI
MOTOR AMERICA, INC.,**

Defendants.

**CIVIL ACTION NO.:
2:07-cv-00306-MHT-CSC**

AFFIDAVIT OF J. TRENT SCOFIELD

I, J. Trent Scofield, being first duly sworn, testify as follows:

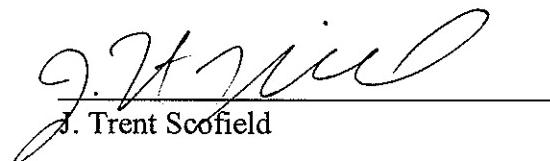
1. I am a citizen and resident of the State of Alabama. I am over 18 years of age, and I am otherwise competent to testify in this matter. I have personal knowledge of the facts stated herein. The following facts are true to the best of my information and knowledge.

2. I am an attorney who is licensed to practice law in the State of Alabama. I have served as counsel of record for Hyundai Motor America, Inc. ("HMA") throughout the case styled Jerry Leon Dees, Jr. v. Hyundai Motor Manufacturing Alabama, LLC and Hyundai Motor America, Inc., Docket No. 2:07-CV-00306-MHT-CSC in the United States District Court for the Middle District of Alabama, Southern Division.

3. This affidavit is in support of the Bill of Costs for costs incurred in the defense of this matter on behalf of the Defendant. The total for these items is \$5,372.50. These costs are detailed within the Itemization of Costs which has been attached to the Bill of Costs.

4. I declare under penalty of perjury that the foregoing costs itemized in the Bill of Costs submitted to the Court are correct, are reasonable based upon my years of experience in this legal community, and were necessarily incurred in this action.

FURTHER AFFIANT SAITH NOT.



J. Trent Scofield

STATE OF ALABAMA)
)
COUNTY OF JEFFERSON)

Sworn to and subscribed this 19th day of June, 2008.



Sandra K. Parson
NOTARY PUBLIC

My Commission Expires: 12-1-09

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of June, 2008, I electronically filed the foregoing pleading on behalf of Defendant Hyundai Motor America, Inc. with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: W. Perry Hall, Vincent F. Kilborn, III, David Allen McDonald, Jeffrey R. Sport, T. Scott Kelly, Matthew K. Johnson, and Timothy A. Palmer.

/s/ J. Trent Scofield
J. Trent Scofield (SCO024)
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
One Federal Place, Suite 1000
1819 Fifth Avenue North
Birmingham, AL 35203-2118
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